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-BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH-

In the Matter of the Petition of Spring Canyon Energy, LLC for the Approval of a Contract for the Sale of Capacity and Energy from its Proposed QF Facility

Docket No. 05-035-08

In the Matter of the Petition of Pioneer Ridge, LLC and Mountain Wind, LLC For Approval of a Contract For the Sale of Capacity and Energy from its Existing and Proposed QF Facilities

Docket No. 05-035-09

REBUTTAL TESTIMONY OF DAVID L. OLIVE FOR SPRING CANYON ENERGY, LLC

March 18, 2005

1 **Q. Please state your name and business address.**

2 A. My name is David L. Olive and my business address is 500 S. Taylor, Suite 400,
3 Amarillo, TX 79101.

4

5 **Q. Have you filed testimony previously in this docket?**

6 A. Yes. I filed direct testimony on February 28, 2005.

7

8 **Q. What is the purpose of your rebuttal testimony?**

9 A. The purpose of my rebuttal testimony is to:

10 a. Respond to testimony filed February 28, 2005 by Roger Swenson on
11 behalf of Pioneer Ridge, LLC and Mountain Wind, LLC (collectively
12 “Wind Projects”); and,

13 b. Respond to PacifiCorp filings made on February 28, 2005 and March 11,
14 2005.

15

16 **Q. What are your concerns regarding Mr. Swenson’s testimony?**

17 A. Mr. Swenson brings up several items in his testimony that are of concern to

18 Spring Canyon:

19 1. *Queue was not Contemplated*

20 Although Mr. Swenson participated in the “establishment of the
21 Stipulation and the Schedule 38 procedures” and claims that a queue was
22 not contemplated, I submit that anytime a finite amount of capacity is
23 allocated, e.g. the 275 MW cap, a queue is inevitable since the interested

24 parties will try to claim such capacity until the capacity is fully subscribed.
25 Once the 275 MW cap is reached, no more capacity under the Stipulation
26 will be available. If this occurs, then PacifiCorp is left without a
27 methodology to determine avoided costs and qualifying facilities will have
28 no recourse. Thus, given a finite amount of available capacity,
29 determining a queue position is important. Therefore, parties to the
30 Stipulation anticipated the need to accommodate an increase to the 275
31 MW cap and provided a mechanism within the Stipulation to petition for
32 such an increase until long-term avoided costs would be established by the
33 Commission.

34 2. *First to File*

35 Mr. Swenson states that "...first to file [contracts] should be the first
36 contract drawn up in terms of scheduling to be heard by the Commission."
37 Mr. Swenson's concern is that uneconomic projects that have not filed for
38 contract approval may be holding a place within the queue. While this is a
39 valid concern, it is equally important to be concerned with a situation
40 where an uneconomic or invalid project files for contract approval, hoping
41 to work out the details later. Spring Canyon has demonstrated its viability
42 by securing necessary permits and providing necessary information related
43 to its status as a qualifying facility. Spring Canyon asserts that a decision
44 regarding its standing related to the receipt of avoided cost pricing and
45 available Stipulation capacity needs to be determined before any other
46 potential claimant since it has been trying to receive avoided cost pricing

47 since July 30, 2004. Spring Canyon petitioned the Commission for the
48 remaining capacity under the cap on September 28, 2004 and we believe
49 the Commission did not address that issue in its October 7, 2004 order in
50 Docket No. 03-035-14.

51

52 **Q. Why do you believe that?**

53 A. Because we presented alternative arguments to the Commission, including a
54 request to increase the 275 MW cap. All of the emphasis of the order was on
55 increasing the cap and the Commission clearly denied that request. The
56 remaining capacity had a set price under the Stipulation and was still available in
57 September. No one else was seeking the remaining capacity that Spring Canyon
58 requested from the Commission, least of all the Wind Projects. In the October 7,
59 2004 order the Commission focused on a method for calculating avoided costs,
60 but that was not necessary for the remaining megawatts under the cap; that would
61 only be required for pricing megawatts above the cap, the request the Commission
62 denied. That had nothing to do, however, with the remaining capacity for which
63 Spring Canyon had made an alternative request which was not addressed and that
64 is why we believe that request is still pending.

65

66 **Q. Why did Spring Canyon file a petition and a contract on February 9, 2005**
67 **that began Docket No. 05-035-08?**

68 A. Because we still did not know what capacity remained under the cap and we could
69 not negotiate a contract with PacifiCorp under Schedule 38 without knowing that
70 number.

71 3. *Schedule 38 Applicability*

72 Notwithstanding PacifiCorp's October 15, 2004 letter to Mr. Gary
73 Tassainer in which PacifiCorp clearly states that the Wind Projects do fall
74 under Schedule 38, Mr. Swenson testified that "[p]roviding information to
75 PacifiCorp to receive an indicative price hardly seems like a viable means
76 of addressing who should get access to stipulation pricing." In addition,
77 Mr. Swenson testified, "...there was no reason for the Wind Projects to
78 ask for indicative prices through the Schedule 38 steps." Mr. Swenson
79 appears to have made these statements without regard to Stipulation
80 language clearly stating "[n]othing in this Stipulation is intended to
81 amend or cancel any provision of Schedule 38." Mr. Swenson also
82 ignored the language in the Commission's October 7, 2004 order that says:
83 "PacifiCorp's Schedule 38 identifies the information to be provided and
84 the course of conduct which parties should follow, to the extent they can,
85 to negotiate a QF contract. Pending the outcome we all await, Schedule 38
86 applies, within the parameters it sets."

87

88 **Q. Do you wish to raise any other concerns relating to Mr. Swenson's**
89 **testimony?**

90 A. Not at this time.

91 **Q. What concerns do you have regarding PacifiCorp’s filings made on February**
92 **28, 2005 and March 11, 2005 relating to Docket Nos. 05-035-08 and 05-035-**
93 **09?**

94 A. I have several concerns regarding both the February 28, 2005 and March 11, 2005
95 filings and I will address each filing and my concerns in turn.

96

97 **Q. What are your concerns related to PacifiCorp’s February 28, 2005 filing?**

98 A. PacifiCorp claims to have made repeated attempts to receive additional
99 information from Spring Canyon and that “Spring Canyon has never fully
100 complied with the provisions of Schedule 38...” It might be interesting to note
101 that PacifiCorp did not respond to Spring Canyon’s July 30, 2004 letter requesting
102 a draft contract until September 17, 2004. In that letter, PacifiCorp mentions the
103 need for Spring Canyon to provide more information according to Schedule 38.
104 Spring Canyon subsequently provided detailed project information to PacifiCorp
105 on September 24, 2004. Spring Canyon has endeavored to be prompt and concise
106 in its communication. Finally, Spring Canyon self-certified as a qualifying
107 facility under the FERC rules implementing PURPA February 22, 2005.

108

109 **Q. PacifiCorp mentions that “[it] has had no correspondence with the Wind**
110 **Projects prior to the filing of their Petition with the Commission.” Is that**
111 **statement accurate based on information received thus far?**

112 A. I would have to say “no.” PacifiCorp had at least phone conversations and
113 exchanged e-mail with Mr. Tassainer as early as October 6, 2004. PacifiCorp

114 provided this communication in response to data requests filed by the Division of
115 Public Utilities.

116

117 **Q. Does any of this communication between PacifiCorp and the Wind Projects**
118 **cause you any concern?**

119 A. The October 15, 2004 letter PacifiCorp wrote to Mr. Tassainer raises a few issues.
120 In that letter, Mr. Bruce Griswold of PacifiCorp writes: “Once PacifiCorp
121 receives all the information for the proposed wind project per Schedule 38, we
122 will prepare an indicative price proposal for your consideration per the Stipulation
123 Order.” Mr. Griswold’s comment is in contrast to what Mr. Dean Brockbank
124 wrote in his October 4, 2004 response to Spring Canyon’s request for a draft
125 contract “consistent with the Stipulation for the amount of megawatts that remain
126 under the Cap” in its July 30, 2004 letter. In his response, Mr. Brockbank stated
127 that it had “received a written request for indicative prices under Schedule 38
128 from another QF, which is also in itself larger than the entire stipulated cap. We
129 receive this request ahead of your July 30, 2004 request. Given these two
130 proposed “jumbo” QFs, and given the limitations set forth in the Stipulation, only
131 the PSC can resolve these difficult issues.”

132

133 **Q. Was PacifiCorp’s response to the Wind Projects consistent with recent**
134 **Commission orders?**

135 A. No it wasn’t. In its September 23, 2004 Order Approving Tariff Revision, the
136 Commission stated: “We agree with PacifiCorp and the Committee that preparing

137 an indicative pricing response is problematic, whether in 30 or 90 days, without
138 Commission direction on the methodology to be used. We will enter an order
139 approving the revised tariff, suspending any time period in which the company
140 would be required to provide an indicative pricing response.”

141

142 **Q. Given PacifiCorp’s obvious position regarding Schedule 38, do you believe**
143 **they should have mentioned the September 23, 2004 order to any and all**
144 **parties requesting QF pricing, as well as the “large QF” concerns?**

145 A. Yes.

146

147 **Q. What other concerns do you have related to PacifiCorp in this proceeding?**

148 A. PacifiCorp’s Response, dated March 11, 2005 states that Spring Canyon is
149 attempting to “cut short” the effort of the QF Taskforce. Spring Canyon denies
150 that we are trying to cut anything short. The Stipulation provides for a party to
151 petition for an increase in the cap. The Stipulation also specifies that power from
152 the QF project will be available no later than June 1, 2007. As Spring Canyon
153 stated in direct testimony, “[p]rovided the Commission reaches a timely decision
154 and contract negotiations with the Company are successful, Spring Canyon will
155 have power available to PacifiCorp by June 1, 2007 and would like a 20-year QF
156 contract for 180 MWs. This is a desirable level to maximize the greater
157 efficiencies offered by a large-frame combined-cycle configuration. Spring
158 Canyon is seeking a decision by the Commission to increase the cap to
159 accommodate Spring Canyon and possibly other parties’ interests. If the

160 Commission concludes that fewer than 180 MWs are available, Spring Canyon
161 would still be interested in the remaining capacity determined by the Commission
162 to be available. ” It is evident that Spring Canyon is requesting the cap to be
163 increased for itself *and other viable QF projects* that can meet the terms outlined
164 in the Stipulation.

165

166 **Q. Do you believe the avoided costs PacifiCorp has provided, specifically those**
167 **associated with the 500 MW and 99 MW cases, are accurate?**

168 A. No, I do not. When Spring Canyon first began participating in the Large QF
169 Taskforce meetings, PacifiCorp maintained that its Differential Revenue
170 Requirement methodology (“DRR”) provided accurate avoided costs as compared
171 to those produced by the Resource Stack Model. PacifiCorp voiced this opinion
172 in spite of comments by PacifiCorp that DRR produced “illogical results.” I
173 found that statement to be rather intriguing, to say the least!

174

175 Mr. Laren Hale distributed “corrected” DRR avoided costs in an e-mail dated
176 February 16, 2005 and was included in my direct testimony. These corrected
177 avoided costs were for a 500 MW QF at 100% capacity factor, rather than an 85%
178 capacity factor as specified in Appendix A of the Stipulation, and increased by
179 over \$9.00/MWh.

180

181 Next, I compared the transmission assumptions used in Table D.1 – Portfolio
182 Capital Costs found on p. 71 of the PacifiCorp – 2004 IRP to those found in the

183 99 MW and 500 MW avoided cost models PacifiCorp provided in these
184 proceedings. PacifiCorp appears to have excluded significant transmission costs
185 for their Brownfield WY PC2 coal project. They also omitted transmission costs
186 associated with their gas-fired combined-cycle projects and this omission is as
187 high as \$139 million. This information is provided in Exhibit 4.

188

189 **Q. Does this conclude your rebuttal testimony?**

190 A. Yes it does.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition was emailed this 18th day of March 2005, to the following:

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Exhibit 4 - Transmission Comparison

500 MW QF	Name	Option In-	Total	Avoided Cost Models Transmission		IRP Transmission	Difference
		Svc Yr	MWs	Description (millions)	Assumptions (millions)		
	1 Hunter 4 - PC	2012	575		\$64	\$65	(\$1)
	8 Brownfield WY PC2	2015	382.95		\$1	\$189	(\$188)
	9 Utah Greenfield CCCT 2x1	2014	450		\$4	\$60	(\$56)
	10 Utah Greenfield CCCT Duct Firing 2x1	2014	110		\$1		\$1
	16 West Greenfield CCCT 2x1	2013	469		\$60	\$10	\$50
	17 West Greenfield CCCT- 2x1 duct firing	2013	117		\$165		\$165
					\$24		\$24
				Total	\$319	\$324	(\$5)
99 MW QF							
	1 Hunter 4 - PC	2012	575		\$118	\$65	\$53
	8 Brownfield WY PC2	2015	382.95		\$25	\$189	(\$164)
	9 Utah Greenfield CCCT 2x1	2014	450		\$64	\$60	\$4
	10 Utah Greenfield CCCT Duct Firing 2x1	2014	110		\$1		\$1
	35 Dry Cool CCCT Utah Mona CCCT 2x1	2010	420		\$4	\$143	(\$139)
	36 Dry Cool CCCT Utah Mona CCCT Duct Fi	2010	105		\$1		\$1
	16 West Greenfield CCCT 2x1	2013	469		\$60	\$10	\$50
	17 West Greenfield CCCT- 2x1 duct firing	2013	117		\$165		\$165
					\$24		\$24
				Total	\$462	\$467	(\$5)